

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

**ABDUL ALI KARIM-RASHID, a/k/a Vincent
Delgado, a/k/a Anthony Salgado, formerly
known as Antonio Salgado, Jr.,**

Plaintiff,

vs.

**9:18-CV-495
(TJM/DEP)**

T. LaVALLEY, et al.,

Defendants.

**Thomas J. McAvoy,
Sr. U.S. District Judge**

DECISION & ORDER

The Court referred this *pro se* civil action, brought pursuant to 42 U.S.C. § 1983, to Magistrate Judge David E. Peebles for a Report-Recommendation pursuant to 28 U.S.C. § 636(b) and Local Rule 72.3(c). The case is one of a series of cases filed by the Defendant concerning the conditions of his confinement in various New York State prisons.

Magistrate Judge Peebles' Report-Recommendation, dkt. # 82, issued on December 20, 2018, recommends that Defendant's motion to dismiss for failure to prosecute be granted with prejudice. Magistrate Judge Peebles finds that—despite a warning from the Court about the consequences of failing to appear—Plaintiff without a valid excuse failed to appear for his scheduled deposition. Defendants, Magistrate Judge

Peebles found, were prejudiced by this delay and would be further prejudiced by an additional delay. Given Plaintiff's failure to respond to Defendants' motion, Magistrate Judge Peebles also concluded that lesser sanctions would be ineffective. He therefore recommends dismissal of the case with prejudice.

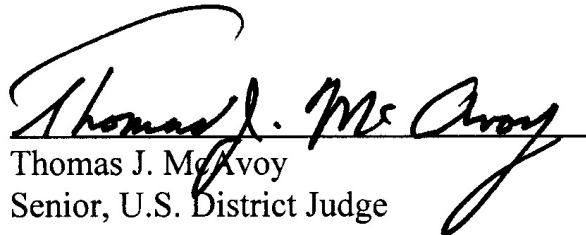
No party objected to the Report-Recommendation, and the time for such objections has passed. After examining the record, this Court has determined that the Report-Recommendation is not subject to attack for plain error or manifest injustice and the Court will accept and adopt the Report-Recommendation for the reasons stated therein.

Accordingly,

The Report-Recommendation of Magistrate Judge Peebles, dkt. # 82, is hereby **ACCEPTED** and **ADOPTED**. Defendant's motion to dismiss, dkt. # 79, is hereby **GRANTED**, and Plaintiff's Amended Complaint is **DISMISSED** with prejudice. The Clerk of Court is directed to **CLOSE** the case.

IT IS SO ORDERED.

Dated: April 10, 2019


Thomas J. McAvoy
Senior, U.S. District Judge